



Legal System	Constitution	Bill of Rights	Form of Government
Common Law Statutory Law	Written	Yes	Republic

A. Criminal Statutes

1. Human Trafficking and Related Offenses

a. Tex. Penal Code Ann. § 20A.02 (2019) – Trafficking of Persons

i. Summary

A person commits the offense of trafficking of persons if the person knowingly:

- (1) traffics another person with the intent that the trafficked person engage in forced labor or services;
- (2) receives a benefit from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services;
- (3) traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in conduct prohibited by [Tex. Penal Code Ann. § 43.02 (Prostitution), Tex. Penal Code Ann. § 43.03 (Promotion of Prostitution), Tex. Penal Code Ann. § 43.031 (Online Promotion of Prostitution), Tex. Penal Code Ann. § 43.04 (Aggravated Promotion of Prostitution), Tex. Penal Code Ann. § 43.041 (Aggravated Online Promotion of Prostitution), or Tex. Penal Code Ann. § 43.05 (Compelling Prostitution)];
- (4) receives a benefit from participating in a venture that involves an activity described by Subdivision (3) or engages in sexual conduct with a person trafficked in the manner described in Subdivision (3);
- (5) traffics a child with the intent that the trafficked child engage in forced labor or services;
- (6) receives a benefit from participating in a venture that involves an activity described by Subdivision (5), including by receiving labor or services the person knows are forced labor or services;
- (7) traffics a child and by any means causes the trafficked child to engage in, or become the victim of, conduct prohibited by [Tex. Penal Code Ann. § 21.02 (Continuous Sexual Abuse of Young Child or Children), Tex. Penal Code Ann. § 21.11 (Indecency with a Child), Tex. Penal Code Ann. § 22.011 (Sexual Assault), Tex. Penal Code Ann. § 22.021 (Aggravated Sexual Assault), Tex. Penal Code Ann. § 43.02 (Prostitution), Tex. Penal Code Ann. § 43.03 (Promotion of Prostitution), Tex. Penal Code Ann. § 43.031 (Online Promotion of Prostitution), Tex. Penal Code Ann. § 43.04 (Aggravated Promotion of Prostitution), Tex. Penal Code Ann. § 43.041 (Aggravated Online Promotion of Prostitution); Tex. Penal Code Ann. § 43.05 (Compelling Prostitution), Tex. Penal Code Ann. § 43.25 (Sexual Performance by a Child), Tex. Penal Code Ann. § 21.02 (Continuous Sexual Abuse of Young Child or Children), Tex. Penal Code Ann. § 21.11 (Indecency with a Child), Tex. Penal Code Ann. § 22.011 (Sexual Assault), Tex. Penal Code

Ann. § 22.021 (Aggravated Sexual Assault), Tex. Penal Code Ann. § 43.02 (Prostitution), Tex. Penal Code Ann. § 43.03 (Promotion of Prostitution), Tex. Penal Code Ann. § 43.031 (Online Promotion of Prostitution), Tex. Penal Code Ann. § 43.04 (Aggravated Promotion of Prostitution), Tex. Penal Code Ann. § 43.041 (Aggravated Online Promotion of Prostitution), Tex. Penal Code Ann. § 43.05 (Compelling Prostitution), Tex. Penal Code Ann. § 43.25 (Sexual Performance by a Child), Tex. Penal Code Ann. § 43.251 (Employment Harmful to Children), or Tex. Penal Code Ann. § 43.26 (Possession or Promotion of Child Pornography)); or

- (8) receives a benefit from participating in a venture that involves an activity described by Subdivision (7) or engages in sexual conduct with a child trafficked in the manner described in Subdivision (7).

Tex. Penal Code Ann. § 20A.02(a).

Texas defines “coercion” as it is generally used in the Code, meaning—among other things—the threat “to commit an offense,” “to inflict bodily injury” to another, “to accuse a person of any offense,” to harm a person’s credit or business reputation, and “to take or withhold action as a public servant.” Tex. Penal Code Ann. § 1.07; 20A.02(a-1). Texas’s trafficking in persons law expands the definition of “coercion” further to include the threat or act of “destroying, concealing, confiscating, or withholding from a trafficked person” “the person’s actual or purported government records or identifying information or documents; causing a trafficked person, without the person’s consent to become intoxicated, as defined by Section 49.01, to a degree that impairs the person’s ability to appraise the nature of the prohibited conduct or to resist engaging in that conduct; or withholding alcohol or a controlled substance to a degree that impairs the ability of a trafficked person with a chemical dependency, as defined by Section 462.001, Health and Safety Code, to appraise the nature of the prohibited conduct or to resist engaging in that conduct.” Tex. Penal Code Ann. § 20A.02(a-1).

“Forced labor or services” is defined as “labor or services, other than labor or services that constitute sexual conduct, that are performed or provided by another person and obtained through an actor’s use of force, fraud, or coercion.” Tex. Penal Code Ann. § 20A.01(2).

“Traffic” means “to transport, entice, recruit, harbor, provide, or otherwise obtain another person by any means.” Tex. Penal Code Ann. § 20A.01(4).

It is not a defense that the defendant did not know the victim’s age at the time of the offense. Tex. Penal Code Ann. § 20A.02(b)(1).

Additionally, a defendant prosecuted for human trafficking may be prosecuted for any lesser included offenses. Tex. Penal Code Ann. § 20A.02(c). However, where trafficking involves the continuous sexual abuse of a young child under Tex. Penal Code Ann. § 20A.02(a)(7), a defendant may not also be convicted of the crime of continuous sexual abuse of a young child unless it is charged in the alternative, “occurred outside the period in which the” offense under Tex. Penal Code Ann. § 20A.02(a)(7)(A) is committed, or is considered to be a lesser included offense of the offense alleged under Tex. Penal Code Ann. § 20A.02(a)(7)(A). Tex. Penal Code Ann. § 20A.02(d).

ii. Sentencing

Trafficking of persons is generally a felony of the second degree. Tex. Penal Code Ann. § 20A.02(b). Imprisonment for a felony in the second degree generally is not more than 20 years or less than two years, and a person found guilty may be fined up to USD 10,000. Tex. Penal Code Ann. § 12.33(a)–(b).

An offense under the trafficking of persons statute is a felony of the first degree when the offense involves: (1) trafficking a child with the intent that the trafficked child engage in forced labor or services, receiving a benefit from participating in a venture that involves an activity involving trafficking of a child, or trafficking a child and by any means causes the trafficked child to engage in or become the victim of conduct prohibited in section 20A.02(a)(7)(A)–(K), regardless of whether the actor knows the age of the child at the time of the offense, (2) the

commission of the offense results in the death of the person who is trafficked, or (3) the commission of the offense results in the death of an unborn child of the person who is trafficked. Tex. Penal Code Ann. § 20A.02(b). A person convicted of a felony of the first degree shall receive a sentence of imprisonment for life or for any term of not more than 99 years or less than five years and may be punished by a fine not to exceed USD 10,000. Tex. Penal Code Ann. § 12.32(a)–(b).

A defendant convicted of trafficking in persons must “pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for any victim of the offense who is younger than 18 years of age.” Tex. Code Crim. Proc. Ann. § 42.0372(a).

iii. Statute of Limitations

Generally, a prosecution for trafficking of persons must be brought within 10 years. Tex. Code Crim. Proc. Ann. § 12.01(2)(G). However, a prosecution for a trafficking of persons offense involving a child may be brought at any time. Tex. Code Crim. Proc. Ann. § 12.01(1)(G).

b. Tex. Penal Code Ann. § 20A.03 (2015) – Continuous Trafficking of Persons

i. Summary

A person commits the separate offense of continuous trafficking of persons if the person engages in conduct that constitutes the offense of trafficking in persons, as outlined by Tex. Penal Code Ann. § 20A.02, at least two times during a period that is 30 or more days in duration. Tex. Penal Code Ann. § 20A.03(a).

In a prosecution for continuous trafficking of persons, if a jury is the trier of fact it need not unanimously agree on the specific defendant’s conduct that was a human trafficking offense under Tex. Penal Code Ann. § 20A.02 or on the exact date the defendant engaged in that conduct. Tex. Penal Code Ann. § 20A.03(b).

If the victim under a prosecution for continuous trafficking of persons under Tex. Penal Code Ann. § 20A.03(a) is the same as the victim of a prosecution for trafficking in persons under Tex. Penal Code Ann. § 20A.02(a), the defendant may not be convicted in the same criminal prosecution unless the trafficking in persons offense is charged in the alternative, occurred in a different time period, or is considered by the trier of fact to be a lesser included offense of the conduct underlying the continuous trafficking of persons charge. Tex. Penal Code Ann. § 20A.03(c). If the conduct is against the same victim, a defendant may not be charged with more than one count of continuous trafficking of persons. Tex. Penal Code Ann. § 20A.03(d).

ii. Sentencing

The offense of continuous trafficking of persons is a felony of the first degree and punishable by up to life in prison or for any term of not more than 99 years or less than five years and a fine not to exceed USD 10,000. Tex. Penal Code Ann. §§ 12.32(a)–(b) and 20A.03(e).

iii. Statute of Limitations

A prosecution for continuous trafficking of persons may be brought at any time. Tex. Code Crim. Proc. Ann. § 12.01(1)(H).

c. Tex. Penal Code Ann. § 20A.04 (2015) – Accomplice Witness; Testimony and Immunity

A party to an offense—*i.e.*, an accomplice—may be required to provide evidence or testify about the offense. Tex. Penal Code Ann. § 20A.04(a). When an accomplice is required to provide evidence or testify, that evidence or testimony cannot be used against that person in any adjudicatory proceeding except a prosecution for aggravated perjury. Tex. Penal Code Ann. § 20A.04(b). A conviction for human trafficking may be had on the uncorroborated testimony of an accomplice. Tex. Penal Code Ann. § 20A.04(c).

d. Tex. Penal Code Ann. § 43.02 (2019) – Prostitution

It is a defense to prosecution for the offense of prostitution under Texas Penal Code Ann. § 43.02(a) (“knowingly offer[ing] or agree[ing] to receive a fee from another to engage in sexual conduct”) that the actor engaged in the conduct because the actor was the victim of conduct that constitutes an offense under Tex. Penal Code Ann. § 20A.02 (trafficking of persons) or Tex. Penal Code Ann. § 43.05 (compelling prostitution). Tex. Penal Code Ann. § 43.02(d).

e. Tex. Penal Code Ann. § 71.02 (2019) – Engaging in Organized Criminal Activity

A person commits the offense of engaging in organized criminal activity if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a street gang, the person commits or conspires to commit one or more of the designated predicate offenses including any offense in violation of the trafficking of persons statute. Tex. Penal Code Ann. § 71.02(a)(12).

f. Tex. Family Code Ann. § 54.04012 (2017) – Trafficked Persons Program

A juvenile court may require a child found to have engaged in delinquent conduct or conduct indicating a need for supervision and who is believed to be a victim of trafficking of persons to participate in a program for the assistance, treatment, and rehabilitation of trafficked children. Tex. Family Code Ann. § 54.04012; *see* Tex. Hum. Res. Code Ann. § 152.0017 (prescribing requirements for Trafficked Persons Program). The court may seal the case records if the child successfully completes the program. Tex. Family Code Ann. § 54.04012(d).

g. Tex. Code Crim. Proc. Ann. Art. 42.0191 (2007) – Finding Regarding Victims of Trafficking or Other Abuse

In the trial of an offense, on the motion of the attorney representing the state, the judge shall make an affirmative finding of fact and enter the affirmative finding in the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial is or has been a victim of a severe form of trafficking in persons as defined by 22 U.S.C. Section 7102(8). Tex. Code Crim. Proc. Ann. art. 42.0191(a)(1). The papers in the case containing such an affirmative finding are confidential unless the victim (or parents, if a minor) provides written consent. Tex. Code Crim. Proc. Ann. art. 42.0191(b)(3).

2. Online Child Sexual Exploitation and Child Pornography Offenses

Tex. Penal Code Ann. § 43.25 (2017) – Sexual Performance by a Child

Tex. Penal Code Ann. § 43.26 (2015) – Possession or Promotion of Child Pornography

Tex. Penal Code Ann. § 43.251 (2021) – Employment Harmful to Children

Tex. Penal Code Ann. § 43.261 (2011) – Electronic Transmission of Certain Visual Material Depicting Minor

Tex. Penal Code Ann. § 43.262 (2017) – Possession or Promotion of Lewd Visual Material Depicting Child

Tex. Penal Code Ann. § 43.27 (2003) – Duty to Report

Tex. Penal Code Ann. § 43.031 (2019) – Online Promotion of Prostitution

Tex. Penal Code Ann. § 43.041 (2019) – Aggravated Online Promotion of Prostitution

3. Tex. Code Crim. Proc. § 62.002 (2005) – Registration as Sex Offender

With some exceptions, a person convicted of a “reportable conviction or adjudication” must register as a sex offender. Tex. Code Crim. Proc. § 62.002(b). A “reportable conviction or adjudication” includes trafficking of persons under Tex. Penal Code Ann. §§ 20A.02(a)(3), (4), (7), or (8) and continuous trafficking of persons under Tex. Penal Code Ann. § 20A.03, “if the offense is based partly or wholly on conduct” under §§ 20A.02(a)(3), (4), (7), or (8). Tex. Code Crim. Proc. § 62.001(5)(A).

B. Civil Liability Statutes

1. Tex. Civ. Prac. & Rem. Code Ann. § 98.002 (2009) – Liability

a. Summary

A victim of human trafficking may seek damages in a civil lawsuit against a defendant who engages in trafficking in persons or who intentionally or knowingly benefits from participating in a venture involved in trafficking that person. Tex. Civ. Prac. & Rem. Code Ann. § 98.002(a). A victim may sue regardless of whether the defendant has been convicted in a criminal proceeding. Tex. Civ. Prac. & Rem. Code Ann. § 98.002(b).

Codefendants who engage in the trafficking of persons, and shareholders or members of business entities, can be jointly and severally liable for damages arising from the trafficking of the plaintiff. Tex. Civ. Prac. & Rem. Code Ann. §§ 98.0025.(b); 98.005.

b. Damages and Other Relief

The court may award actual damages, including those for mental anguish, even if an injury other than mental anguish is not shown, as well as court costs, reasonable attorney’s fees, and exemplary damages. Tex. Civ. Prac. & Rem. Code Ann. § 98.003.

c. Statute of Limitations

The statute of limitations for a civil lawsuit arising out of human trafficking is generally five years after the day the claim accrues. Tex. Civ. Prac. & Rem. Code Ann. § 16.0045(b)(3). For lawsuits involving certain allegations of trafficking involving a child, the lawsuit may be brought “not later than 30 years after the day the [claim] accrues.” Tex. Civ. Prac. & Rem. Code Ann. § 16.0045(a)(4).

2. Tex. Civ. Prac. & Rem. Code Ann. § 140A.002 (2015) – Civil Racketeering

a. Summary

A person or enterprise is liable for racketeering if, for financial gain, the person or enterprise: (1) commits an offense under Texas’s trafficking of persons chapter, and (2) the offense or an element of the offense occurs in more than one county or is facilitated by U.S. mail, e-mail, telephone, facsimile, or wireless communication from one Texas county to another. Tex. Civ. Prac. & Rem. Code Ann. § 140A.002. The Texas Attorney General may bring a lawsuit in the name of the state against a person or enterprise for racketeering. Tex. Civ. Prac. & Rem. Code Ann. § 140A.101(a). This statute does not authorize a lawsuit by a person or enterprise injured as a result of racketeering. Tex. Civ. Prac. & Rem. Code Ann. § 140A.101(b).

b. Damages and Other Relief

The Texas Attorney General may seek civil penalties, costs, reasonable attorney’s fees, and injunctive relief. Tex. Civ. Prac. & Rem. Code Ann. § 140A.101(a). The court may also award damages to the state for racketeering shown to have materially damaged the state. Tex. Civ. Prac. & Rem. Code Ann. § 140A.102(b)(7).

c. Statute of Limitations

A civil racketeering lawsuit may be commenced only where the lawsuit “is filed on or before the seventh anniversary of the date on which the racketeering offense was actually discovered.” Tex. Civ. Prac. & Rem. Code Ann. § 140A.105.

C. Additional Statutes Specific to Human Trafficking

1. Posting Required of Human Trafficking Signs

The Texas Attorney General shall prescribe the design, content, and manner of display of a sign that directs a victim of human trafficking to contact the National Human Trafficking Resource Center and include its telephone number and internet website that must be posted at transportation hubs, on the premises of sexually oriented businesses, at cosmetologist facilities and barbershops, at abortion facilities, and by massage therapists.¹

2. Tex. Code Crim. Proc. Ann. § 2.305 (2019) – Report Required Concerning Human Trafficking Cases

The Department of Public Safety and, in a county with more than 50,000 people, the municipal police department, sheriff’s department, constable’s office, county attorney’s office, district attorney’s office, and criminal district attorney’s office, as applicable, shall submit to the Texas Attorney General a report of each human trafficking offense being investigated, including a brief description of the alleged prohibited conduct, a variety of information about each person suspected of committing the offense and each victim of the offense, information about the nature and type of human trafficking offense, and the disposition of the investigation, regardless of the manner of disposition. An attorney representing the state who prosecutes the alleged commission of an offense under the human trafficking statutes shall submit to the Texas Attorney General a report on the offense being prosecuted, including a brief description of the alleged prohibited conduct, any other charged offense that is part of the same criminal episode relating to the human trafficking charges, details about the offense, and the disposition of each prosecution, regardless of the manner of disposition.

3. Tex. Code Crim. Proc. Ann. § 48.06 (2013) – Educational Materials Concerning Pardons for Certain Victims of Trafficking of Persons

The Board of Pardons and Paroles shall develop educational materials specifically for persons convicted of or placed on deferred adjudication community supervision for an offense committed solely as a victim of trafficking of persons. The Board shall include in the educational materials a detailed description of the process by which the person may submit a request to the Board for a written signed recommendation advising the governor to grant the person a pardon. The educational materials shall be posted on the Board’s website.

4. Tex. Code Crim. Proc. Ann. § 58.052 (2021) – Address Confidentiality Program

The Texas Attorney General shall establish an address confidentiality program to assist a victim of family violence, sexual assault or abuse, stalking, or trafficking of persons in maintaining a confidential address.

¹ Tex. Bus. & Com. Code Ann. § 102.101 (2017) – Posting of Certain Sign Required; Tex. Gov’t Code Ann. § 402.0351 (2019) – Required Posting of Human Trafficking Signs at Transportation Hubs; Tex. Health & S. Code § 245.025 (2017) – Human Trafficking Signs Required; Tex. Occ. Code Ann. § 455.207 (2019) – Posting of Certain Notices Required; Tex. Occ. Code Ann. § 1602.408 (2017) – Posting of Certain Notices Required.

5. Tex. Gov't Code Ann. § 22.011 (2015) – Judicial Instruction Related to Family Violence, Sexual Assault, Trafficking of Persons, and Child Abuse

The Texas Supreme Court must provide judicial training relating to the problems of family violence, sexual assault, trafficking of persons, and child abuse and to issues concerning sex offender characteristics; and the particular categories of information that must be included in the training are specified.²

6. Tex. Gov't Code Ann. § 402.034 (2019) – Human Trafficking Prevention Coordinating Council

The Attorney General shall establish a human trafficking prevention coordinating council to develop and implement a five-year strategic plan for preventing human trafficking in Texas.

7. Tex. Gov't Code Ann. § 402.035 (2019) – Human Trafficking Prevention Task Force

The Office of the Attorney General shall establish a human trafficking prevention task force to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes. Any state or local law enforcement agency, district attorney, or county attorney that assists in the prevention of human trafficking shall, at the request of the task force, cooperate with and assist the task force in collecting statistical data on the nature and extent of human trafficking in the possession of the law enforcement agency or district or county attorney.

8. Tex. Gov't Code Ann. § 402.038(b) (2021) – Transnational and Organized Crime Division

The Office of the Attorney General shall establish a transnational and organized crime division to assist local law enforcement agencies and prosecutors in investigating and prosecuting trafficking of persons and related crimes.

9. Tex. Gov't Code Ann. § 405.023 (2015) – Human Trafficking Prevention Business Partnership

The Secretary of State shall establish and implement a program designated as the human trafficking prevention business partnership to engage participating corporations and other private entities in voluntary efforts to prevent and combat human trafficking. Participating entities shall, among other things specified by the statute, adopt a zero tolerance policy toward human trafficking, participate in public awareness and education campaigns, enhance awareness, and encourage participation in the partnership.

10. Tex. Gov't Code Ann. § 411.0728 (2019) – Procedure for Certain Victims of Trafficking of Persons or Compelling Prostitution

Certain human trafficking victims may petition the court for an order of nondisclosure of criminal history record information on the basis that the person committed the offense solely as a victim of human trafficking.

11. Tex. Gov't Code Ann. § 662.107 (2015) – Human Trafficking Prevention Month

The Texas legislature designated January as Human Trafficking Prevention Month to increase awareness of human trafficking in an effort to encourage people to alert authorities to any suspected incidents involving human trafficking. Human Trafficking Prevention Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of human trafficking.

12. Tex. Gov't Code Ann. § 772.006 (2011) – Governor's Criminal Justice Division

A trafficking of persons investigation and prosecution account is created in the general revenue fund to be composed of legislative appropriations and other money required by law to be deposited into the account. The Criminal Justice

² For an additional relevant statutory provision, see Tex. Gov't Code Ann. § 22.110 (2015) – Judicial Instruction (Court of Criminal Appeals) Related to Family Violence, Sexual Assault, Trafficking of Persons, and Child Abuse and Neglect.

Division may use appropriated money solely to distribute grants to qualified applicants as specified under this section.

13. Tex. Gov't Code Ann. § 2155.0061 (2019) – Prohibition on Certain Bids and Contracts Related to Persons Involved in Human Trafficking

A state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been convicted of any offense related to the direct support or promotion of human trafficking. If a state agency determines that an individual business entity holding a state contract was ineligible to have the bid accepted or contract awarded, the government may immediately terminate the contract without further obligation to the vendor. This section does not create a legal claim to contest a bid or award of a state contract.

14. Tex. Hum. Res. Ann. § 42.253 (2019) – Confidentiality of Information Relating to Services for Human Trafficking Victims

If an applicant for a license to operate a general residential operation will provide services to victims of human trafficking, any information relating to the provision of services for victims of human trafficking is confidential and the commission may not disclose that information. If a hearing is required for an application for a license to operate a general residential operation and the proposed operation will provide services to victims of human trafficking, the applicant is not required to disclose any information relating to the provision of services for victims of human trafficking.

15. Required Training on Human Trafficking Prevention

Certain health care providers and physicians, as well as commercial driver's license applicants, must receive human trafficking training. Cosmetologist continuing education programs require human trafficking training. The Texas Commission on Law Enforcement requires that police officers complete a one-time, four-hour "basic education and training program" on the trafficking of persons. Judges and judicial officers must receive at least four hours of training on issues related to trafficking of persons and child abuse and neglect within a certain period unless exempted.³

16. Tex. Transp. Code Ann. § 201.407 (2019) – Training on Smuggling and Trafficking of Persons

The Texas Department of Transportation shall develop and make available to department employees a training course on the recognition and prevention of smuggling and trafficking of persons.

D. Significant Cases

1. *In re Facebook, Inc.*, 625 S.W. 3d 80 (Tex. 2021)

The three plaintiffs were "friended" or messaged by traffickers on Facebook and Instagram when they were fifteen, fourteen, and fourteen. The traffickers lured and entrapped them into sex-trafficking operations. They asserted, among other claims, that Facebook knowingly facilitated sex trafficking under Tex. Civ. Prac. & Rem. Code

³Tex. Occ. Code Ann. § 116.002 (2019) – Required Training Course on Human Trafficking Prevention for Certain Health Care Providers; Tex. Occ. Code Ann. § 156.060 (2019) – Continuing Education in Human Trafficking Prevention; Tex. Occ. Code Ann. § 1602.354 (2017) – Continuing Education; Tex. Occ. Code Ann. § 1701.258(a) (2019) – Education and Training Programs on Trafficking of Persons; Tex. Health & Safety Code Ann. § 171.082 (2015) – Education and Training; Tex. Transp. Code Ann. § 522.035 (2019) – Recognition and Prevention of Human Trafficking; Tex. Gov't Code Ann. § 22.110 (2015) – Judicial Instruction; Tex. Transp. Code Ann. § 522.035 (2019) – Recognition and Prevention of Human Trafficking in Commercial Driver's License Applicants.

§ 98.002(a). Section 98.002 creates a civil claim against anyone “who intentionally or knowingly benefits from participating in a venture that traffics another person.” Facebook moved to dismiss all claims as barred by Section 230 of the U.S. Communications Decency Act (**CDA**), which states that no interactive computer service provider shall be treated as the publisher or speaker of information provided by another information content provider.

The Texas Supreme Court dismissed the plaintiffs’ tort claims but held that the Section 98.002 claim could proceed to further litigation. The Court interpreted “participation” under Section 98.002 as “affirmative acts encouraging the wrongdoing.” Plaintiffs did allege affirmative acts by Facebook “encouraging the use of its platforms for sex trafficking.” For instance, their petitions alleged that Facebook created a breeding ground for sex traffickers; specifically, by using collected user information to direct users to persons they likely want to meet, and that Facebook facilitated human trafficking by identifying potential targets and connecting traffickers to them. The Texas Supreme Court ruled that Section 230 of the CDA did not bar the plaintiffs’ Texas statutory claims because the claims argued that Facebook bore responsibility for its own wrongful acts, not the words or actions of third-party content providers. Moreover, the court interpreted the U.S. Allow States and Victims to Fight Online Sex Trafficking Act to except civil human trafficking claims under state statutes from Section 230’s reach.

2. *Ex Parte Jeffrey Barrett and Ex Parte Barbara Barrett*, 608 S.W. 3d 80 (Tex. App. 2020)

The defendants were charged with continuous human trafficking of their four adopted children under the age of 18 for forced labor or services by removing the children from school, forcing them to work in a puppy mill behind the family home, and profiting from the venture. Each defendant filed a pretrial application for writ of habeas corpus on the grounds that the indictment failed to charge an offense because it is legally impossible to charge parents with trafficking their own children for forced labor or services and because the underlying offenses under the Texas trafficking statute were unconstitutionally overbroad and vague on their face under the United States and Texas constitutions. The trial court denied all relief.

The appellate court affirmed and held that otherwise prosecutable criminal conduct does not become protected by the First Amendment because the conduct happens to involve written or spoken words. The court held that the human trafficking statute sections at issue regulate conduct only marginally associated with speech and virtually all of the speech it does regulate fits into the category of speech integral to a crime that does not enjoy the protection of the First Amendment. The court further concluded that the forced labor or services subsections of the Texas human trafficking statute are not unconstitutionally overbroad because parents’ right to assign their children household chores and their expectation that their children will provide reasonable work or service to family farms and businesses does not mean that the trafficking statute is unconstitutionally overbroad. Parental rights are not absolute and may be limited by the compelling governmental interest in the protection of children. Finally, the court rejected the argument that the underlying offenses in the trafficking statute were unconstitutionally vague. The court concluded that a person of ordinary intelligence could readily understand the concepts of trafficking and forced labor or services and understand that they could assign household chores to their children or have their children work reasonable hours in family businesses without being charged with trafficking for forced labor or services.

3. *Davis v. State*, 488 S.W.3d 860 (Tex. App. 2016)

The defendant sexually assaulted a child and then attempted to sell her to several people for further sexual conduct. The indictment charged the defendant with knowingly trafficking a child younger than 18 with the intent that she engage in “forced labor or services, to-wit: sexual conduct.” The defendant appealed on sufficiency of the evidence grounds.

The appellate court agreed with the defendant and reversed, noting that the definition of “forced labor or services” excluded sexual conduct. Because neither the indictment nor the jury charge included alternative elements for the human trafficking offense, the evidence was insufficient to support the conviction as charged.

4. *Ritz v. State*, 481 S.W.3d 383 (Tex. App. 2015)

The defendant was found guilty of continuous trafficking of persons and sentenced to life in prison for his illicit relationship with a minor, K.D. The defendant appealed, arguing that insufficient evidence supported his conviction.

The appellate court concluded that sufficient evidence supported the defendant's conviction. K.D.'s testimony established that the defendant drove K.D. 20–25 minutes to have sex multiple times over more than a 30-day period. Thus, the defendant was guilty of conduct proscribed by Tex. Penal Code Ann. § 20A.02(a)(7) and subject to an enhancement for the duration of the relationship. In affirming, the court further rejected the defendant's argument that the court should read into the statute a requirement of a nexus to organized crime. Although the court agreed that the defendant may have been correct that the statute is broad enough so that "nearly every adult who has sex with a minor may now be prosecuted as a human trafficker," the conviction was upheld under the plain language of the statute.

Although the court of criminal appeals initially granted discretionary review to examine the appellate court's holding, after examining the records and briefs, it concluded the decision to grant was improvident and dismissed the defendant's petition for discretionary review. *Ritz v. State*, 533 S.W.3d 302 (Tex. Crim. App. 2017) (mem.).

5. *Moreno v. State*, 413 S.W.3d 119 (Tex. App. 2013)

The defendant was charged with human trafficking and compelling prostitution after forcing a minor to engage in prostitution. The defendant appealed, contending that his convictions raised double jeopardy concerns because compelling prostitution is a lesser included offense of trafficking in persons.

The appellate court rejected the double jeopardy challenge, noting that there were not multiple punishments under the "same elements" test because the Texas legislature expressly indicated that defendants may be convicted of both human trafficking based on forced prostitution, and separately, compelling prostitution.

E. Academic Research/Papers

Cheryl Nelson Butler, *Sex Slavery in the Lone Star State: Does the Texas Human Trafficking Legislation of 2011 Protect Minors?*, 45 AKRON L. REV. 843, 844 (2012)

Laura Pratt, *Hidden in Plain Sight: A General Overview of the Human Trafficking Issue*, 75 TEXAS BAR JOURNAL (2012)

Madison Tate Santana, Note, *Trafficked in Texas: Combatting the Sex-Trafficking Epidemic Through Prostitution Law and Sentencing Reform in the Lone Star State*, 71 VAND. L. REV. 1739 (2018)

F. Resources

National Human Trafficking Hotline (Texas):

<https://humantraffickinghotline.org/state/texas>

Office of the Texas Governor, Preventing Human Trafficking:

<https://gov.texas.gov/organization/women/preventing-human-trafficking>

Polaris, Strengthening the Child Sex Trafficking Safety Net in Texas (2019):

<http://polarisproject.org/2019/07/strengthening-the-child-sex-trafficking-safety-net-in-Texas>

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